

## Article 4: City Employees' Retirement System

### Division 18: Contracting Public Agencies

*("Contracting Public Agencies" added 1-7-2003 by O-19140 N.S.)*

#### §24.1801 Administration by the Retirement Board

The Board may administer a Public Agency's retirement plan under the terms of an agreement between the Public Agency and the Board pursuant to this Division. The Board will invest in the Retirement Fund the assets of any Public Agency retirement plan administered under this Division. A Public Agency employee who participates in a Public Agency's Board-administered retirement plan is a "Public Agency Participant," whose rights and responsibilities are governed by this Division and by the terms of the Public Agency's agreement with the Board and retirement plan. Public Agency Participants are not employees of the City of San Diego and are not Members of the System as defined in this Article. They are not entitled to vote on ordinances affecting the benefits of City employees under Charter section 143.1. Changes in benefits for Public Agency Participants must be approved according to the rules and procedures governing their respective Public Agency employers, but do not require approval by the City Council.

*("Administration by the Retirement Board" added 1-7-2003 by O-19140 N.S.)*

#### §24.1802 Agreements Between the Board and Public Agencies

Before the Board may contract to administer a Public Agency's retirement plan, all of the following must occur:

- (a) The Public Agency must request, in writing, that the Board administer its retirement plan.
- (b) The Public Agency must submit any information the Board requires to administer the Public Agency's plan.
- (c) The Board may provide a proposed retirement plan and agreement to the Public Agency to review and approve.
- (d) The Public Agency must agree, in writing, to meet all of the terms and conditions the Board establishes to administer the Public Agency's retirement plan. These terms and conditions may include rules regarding the terms of the Public Agency's retirement plan (such as classifications of participants, determining Creditable Service, benefit formulas, participant contributions,

purchases of Creditable Service, disability benefits and employer contributions), and rules regarding administering the plan (such as providing information to the System, method and time of payment of employee and employer contributions, transfers of assets to the Retirement Fund, valuation of assets and liabilities, terminating the administration of the Public Agency's plan, and indemnification of the System).

- (e) The Board must approve the employee and employer contribution rates for the Public Agency, which will include administrative and investment management fees.
- (f) The Public Agency must assure the Board, in writing, that no vested rights of any of its employees are impaired by its agreement with the Board, and must agree that it is solely responsible for maintaining its employees' vested rights.
- (g) The Public Agency must satisfy the Board that its retirement plan complies with all governing laws and regulations, including the rules governing the tax-qualified status of the retirement plan.
- (h) The Public Agency must agree to pay the System for all costs the System incurs in establishing the agreement to administer the Public Agency's retirement plan, including legal, actuarial, administrative and systems costs. Subject to the Board's approval, the Public Agency may pay these costs in installments over a period of no more than 36 months after the effective date of the agreement for administration, with interest at the Board-established rate.
- (i) The Public Agency's governing board must approve the agreement to administer its retirement plan, which must include an agreement to pay the costs of administering the plan and investment costs, as determined by the Board.
- (j) The City Council must approve, by resolution, the agreement between the Board and the Public Agency.

*("Agreements Between the Board and Public Agencies" added 1-7-2003 by O-19140 N.S.)*

### **§24.1803 Adoption of Contribution Rates for Public Agency Participants**

Based upon the Actuary's advice, the Board will adopt periodically the contribution rates for each Public Agency and Public Agency Participant, as it deems appropriate to: (1) fund the benefits provided by each Public Agency's retirement plan and (2) pay all costs of administering each retirement plan. The Board will determine the

contribution rates for each Public Agency based on each Public Agency's separate experience.

*("Adoption of Contribution Rates for Public Agency Participants" added 1-7-2003 by O-19140 N.S.)*

#### **§24.1804 Public Agency Participant Contributions**

Each contracting Public Agency must collect the contributions of its Public Agency Participants and transfer these contributions to the System to be credited to the individual account of each of its Participants. The Public Agency must transfer these contributions at the time and in the manner required by the Board.

*("Public Agency Participant Contributions" added 1-7-2003 by O-19140 N.S.)*

#### **§24.1805 Contracting Public Agency's Contributions**

Each contracting Public Agency must contribute the amount required by the Public Agency's contribution rate adopted by the Board under section 24.1804. The Public Agency must pay these contributions at the time and in the manner required by the Board.

*("Contracting Public Agency's Contributions" added 1-7-2003 by O-19140 N.S.)*

#### **§24.1806 Accounting for Public Agency Contributions**

The Board will account separately for all contributions it receives from a contracting Public Agency, and no assets of any Public Agency's retirement plan may be used to pay the benefits or costs of administering any other retirement plan administered by the Board. Each Public Agency's retirement plan assets will be commingled with the Retirement Fund's assets solely for investment purposes. The agreement between the Board and the Public Agency will provide for an equitable distribution of earnings among the System and all retirement plans administered by the Board, as determined by the Board in its sole discretion.

*("Accounting for Public Agency Contributions" added 1-7-2003 by O-19140 N.S.)*

#### **§24.1807 Administering Contracting Public Agency's Retirement Plan**

The Board will administer the retirement plan of each contracting Public Agency. Solely in the capacity as administrator – and subject to this Division and its agreement with the Public Agency – the Board will pay retirement benefits to Public Agency Participants as provided in their respective Public Agency employers' retirement plans. The Board may adopt the rules that it deems necessary or proper to administer each Public Agency retirement plan.

*("Administering Contracting Public Agency's Retirement Plan" added 1-7-2003 by*

*O-19140 N.S.)*

**§24.1808 Termination of Agreement Between Public Agency and Retirement Board**

- (a) Termination by Contracting Public Agency: A contracting Public Agency may terminate its agreement with the Board only by a resolution of the Public Agency's governing body. The Public Agency must give the Board written notice of the termination at least one year before the effective date of the termination. The termination is effective on the date designated in the Public Agency's resolution terminating the agreement, subject to Board approval.
- (b) Termination by Board: The Board may terminate an agreement for administration of a Public Agency retirement plan by resolution, subject to City Council approval. A resolution by the Board terminating an agreement with a contracting Public Agency is effective 60 days after notice of its adoption has been mailed by registered mail to the Public Agency's governing body. The Board may terminate its agreement with a Public Agency, with City Council approval, if:
  - (1) the contracting Public Agency fails, for 30 days after demand by the Board, to pay any invoice for services or any contributions required by the agreement,
  - (2) the contracting Public Agency fails, for three months after demand by the Board, to provide any information requested by the Board to administer the Public Agency's retirement plan,
  - (3) the Board determines that the contracting Public Agency is no longer in existence,
  - (4) the Board determines that it is necessary or appropriate to terminate the agreement to avoid adversely affecting the administration of the System or any other Public Agency retirement plan, or
  - (5) the Board determines that termination is a prudent exercise of its fiduciary duties.
- (c) The agreement between the Public Agency and the Board will include terms and conditions for termination of the agreement, including: payment of benefits to Public Agency Participants and retirees, determination of any unfunded liabilities under the Public Agency's retirement plan, payment of unfunded liabilities, determination of the amount of assets held in the Retirement Fund

on behalf of the Public Agency's retirement plan, transfer of assets from the Retirement Fund to another trust fund under the Public Agency's retirement plan, transfer of records to a new administrator and indemnification of the Board and the System.

*("Termination of Agreement Between Public Agency and Retirement Board" added 1-7-2003 by O-19140 N.S.)*

**§24.1809 Lien on Assets of Terminating Public Agency**

- (a) The Board will have a lien on the assets of a terminating contracting Public Agency, subject only to a prior lien for wages, in an amount equal to the actuarially-determined funding deficit for earned benefits of the Public Agency's Participants. The assets will also be available to pay actual costs, including attorneys' fees, necessarily expended by the Board to collect the lien.
- (b) The Public Agency will timely execute all documents the Board deems necessary or appropriate to perfect this lien. The agreement between the Public Agency and the Board may also authorize the Board to act as agent of the Public Agency solely for the purpose of executing and filing any documents under this section.

*("Lien on Assets of Terminating Public Agency" added 1-7-2003 by O-19140 N.S.)*